

Attorney Docket No. 9400-150 (BLS030208)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Jeffrey A. Aaron et al.

Serial No.: 10/675,517

Filed: September 30, 2003

For: SYSTEMS AND METHODS FOR PROVIDING ALERTS

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Confirmation No.: 6101
Examiner: Robert M. Timblin
Group Art Unit: 2167Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: March 7, 2007

TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION-37 C.F.R. § 41.37)

1. Transmitted herewith is the APPEAL BRIEF for the above-identified application, pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" filed January 4, 2007 and received in the U. S. Patent and Trademark Office on January 8, 2007, and the "Notice of Panel Decision from Pre-Appeal Brief Review" mailed January 24, 2007.
2. This application is filed on behalf of

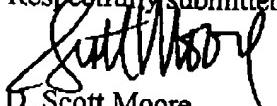
<input type="checkbox"/>	a small entity.
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3. Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:

<input type="checkbox"/>	small entity	\$250.00
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- Please charge Deposit Account No. 50-0220 \$500.00. Any additional fee or refund may be charged to Deposit Account No. 50-0220.

Respectfully submitted,


 D. Scott Moore

Registration No.: 42,011

CERTIFICATION OF FACSIMILE TRANSMISSION
UNDER 37 CFR § 1.8

I hereby certify that this correspondence is being facsimile transmitted to the U. S. Patent and Trademark Office via facsimile number 571-273-8300 on March 7, 2007 and is addressed to Mail Stop Amendment, Commissioner for Patents, P.O., Box 1450, Alexandria, VA 22313-1450.


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ATTACHED:

Faxcover	1 page
Appeal Brief Transmittal	1 page
Appeal Brief	<u>11 pages</u>
TOTAL	13 pages

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Amelia Tauchen
Amelia Tauchen

APPELLANTS' BRIEF ON APPEAL UNDER 37 C.F.R. §41.37

Sir:

This Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" filed January 4, 2007 and received in the U. S. Patent and Trademark Office on January 8, 2007, and the "Notice of Panel Decision from Pre-Appeal Brief Review" mailed January 24, 2007.

Real Party In Interest

The real party in interest is assignee BellSouth Intellectual Property Corporation, Wilmington, Delaware.

Related Appeals and Interferences

Appellants are aware of no appeals or interferences that would be affected by the present appeal.

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Status of Claims

Appellants appeal the rejection of Claims 1 - 20, which are currently pending. Appellants submit that the claims involved in the appeal are independent Claims 1, 10, and 18 and the rejected dependent Claims 2 – 9, 11 – 17, and 19 – 20 as a reversal of the rejection of independent Claims 1, 10, and 18 is requested in the present appeal and a reversal of the rejection of dependent Claims 2 – 9, 11 – 17, and 19 – 20 is also requested based on the reversal of the rejection of the independent claims. Accordingly, the pending claims as included in Appellants' response to the Office Action of March 24, 2006 are attached hereto as Appendix A.

Status of Amendments

No amendment has been filed in the present case in response to the Final Office Action mailed August 22, 2006 (hereinafter "Final Action").

Summary of Claimed Subject Matter

Independent Claim 1 is directed to a method of outputting an alert that an unauthorized event has occurred. A status from a sensor is obtained. (Specification paragraph 22; FIG. 2, block 50). Personnel information, including identity and status information for the personnel, is retrieved from a database. The personnel information relates to the sensor. (Specification paragraph 24 where the text explains that the personnel information can include various identity information along with status information, such as job category and/or authorized access zones for the various individuals; FIG. 2, block 54). The alert is generated (Specification paragraph 27; FIG. 2 block 58) and a filter is applied to determine whether to modify the severity of the alert. (Specification paragraph 32; FIG. 2, block 68). The alert is output. (Specification paragraph 33; FIG. 2 block 72).

Independent Claim 10 is directed to a system for outputting an alert that comprises a sensor interface (Specification paragraph 11; FIG. 1, block 12), a database (Specification paragraph 12; FIG. 1, block 18), and an alert processor in communication with the sensor interface and the database (Specification paragraph 11; FIG. 1, block 16). The alert processor is configured to retrieve personnel information from the database (Specification paragraph 14; FIG. 1, block 24), generate the alert (Specification paragraph 14, FIG. 1, block 22), apply a filter to

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determine whether to modify a severity of the alert (Specification paragraph 17; FIG. 1, block 28), and output the alert (Specification paragraph 18; FIG. 1, block 30). The personnel information comprises identity and status information for the personnel and is related to the sensor. (Specification paragraph 24 where the text explains that the personnel information can include various identity information along with status information, such as job category and/or authorized access zones for the various individuals).

Independent Claim 18 is directed to a computer readable medium having stored thereon instructions (Specification paragraph 22) which, when executed, cause a processor to obtain a status from a sensor (Specification paragraph 22; FIG. 2, block 50), retrieve personnel information comprising identity and status information for the personnel from a database, the personnel information relating to the sensor (Specification paragraph 24 where the text explains that the personnel information can include various identity information along with status information, such as job category and/or authorized access zones for the various individuals; FIG. 2, block 54), generate an alert (Specification paragraph 27; FIG. 2 block 58), apply a filter to determine whether to modify a severity of the alert (Specification paragraph 32; FIG. 2, block 68), and output the alert (Specification paragraph 33; FIG. 2 block 72).

Grounds of Rejection to be Reviewed on Appeal

Claims 1 – 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over U. S. Patent Publication No. US 2003/0023722 to Vinberg (hereinafter "Vinberg") in view of U. S. Patent Publication No. 2004/0148526 to Sands et al. (hereinafter "Sands").

Argument

I. Introduction to 35 U.S.C. §103 Analysis

A determination under §103 that an invention would have been obvious to someone of ordinary skill in the art is a conclusion of law based on fact. *Panduit Corp. v. Dennison Mfg. Co.* 810 F.2d 1593, 1 U.S.P.Q.2d 1593 (Fed. Cir. 1987), cert. denied, 107 S.Ct. 2187. After the involved facts are determined, the decision maker must then make the legal determination of whether the claimed invention as a whole would have been obvious to a person having ordinary

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skill in the art at the time the invention was unknown, and just before it was made. *Id.* at 1596. The United States Patent and Trademark Office (USPTO) has the initial burden under §103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

To establish a *prima facie* case of obviousness, the prior art reference or references when combined must teach or suggest *all* the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. §2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. §2143.01, citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990). As emphasized by the Court of Appeals for the Federal Circuit, to support combining references, evidence of a suggestion, teaching, or motivation to combine must be **clear and particular**, and this requirement for clear and particular evidence is not met by broad and conclusory statements about the teachings of references. *In re Dembiczaik*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). In another decision, the Court of Appeals for the Federal Circuit has stated that, to support combining or modifying references, there must be **particular** evidence from the prior art as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

Appellants respectfully submit that the pending claims are patentable over the cited references for at least the reasons that the cited references do not disclose or suggest, among other things, that the personnel information stored in the database includes both identity *and* status information for the personnel.

A. Claims 1, 10, and 18 are Patentable

Independent Claims 1, 10, and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Vinberg in view of Sands. Independent Claim 1 is directed to a method of outputting an alert and recites, in part:

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...
obtaining a status from a sensor;
retrieving personnel information comprising identity and status
information for the personnel from a database, the personnel information relating
to the sensor;
generating the alert;
applying a filter to determine whether to modify a severity of the alert; and
outputting the alert. (Emphasis added)

Independent Claims 10 and 18 include similar recitations. Thus, according to independent Claim 1 as amended, the personnel information stored in the database includes both identity *and* status information for the personnel. Such embodiments are described, for example, on page 8, paragraph 24 of the Specification, where the text explains that the personnel information can include various identity information along with status information, such as job category and/or authorized access zones for the various individuals. Moreover, as highlighted above, both the identity and status information are stored in the database.

The Final Action acknowledges that Vinberg does not disclose retrieving personnel information comprising identity and status information from a database, but alleges that Sands provides the missing teachings. (Final Action, page 3). Sands is directed to a security method and system for authenticating a person's identity based on biometric information. (See, e.g., Sands Abstract and paragraphs 7, 19, 24, and 37). The Final Action alleges that Sands discloses retrieving identity (biometric profile) and status information (disabled/not-disabled) information from a database. (Final Action, page 9). Appellants acknowledge that Sands discloses storing a user's biometric profile in a database. As shown in FIG. 3 of Sands, the biometric profile includes a user identification field. The biometric profile is retrieved by the authentication policy as discussed in paragraph 69 of Sands. Appellants submit, however, that in sharp contrast to the recitations of independent Claims 1, 10, and 18, the disabled/not-disabled status for the user is not stored in the database and retrieved therefrom. Instead, Sands explains that "[i]n step 420, the authentication policy determines if the location or user has been disabled." (Sands, col. 73; emphasis added). Appellants can find no disclosure in Sands indicating that the authentication policy obtains the disabled/not-disabled status for the user from the same persistent storage medium used to store the biometric profile.

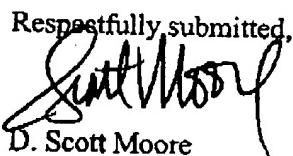
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To establish a prima facie case of obviousness, the prior art reference or references when combined must teach or suggest *all* the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. §2143. Appellants respectfully submit that Sands does not provide the missing teachings related to retrieving personnel information from a database that includes both identity and status information for the personnel; therefore, the combination of Vinberg and Sands does not disclose or suggest all of the recitations of independent Claims 1, 10, and 18 as required under 35 U.S.C. §103(a). Thus, Appellants submit that a prima facie case of obviousness has not been established.

For at least the foregoing reasons, Appellants submit that independent Claims 1, 10, and 18 are patentable over the cited references and that dependent Claims 2 – 9, 11 – 17, and 19 – 20 are patentable, at least, by virtue of their depending from an allowable claim. Accordingly, Appellant respectfully requests that the rejection of Claims 1 – 20 be reversed based on the failure of the Examiner to establish a prima facie case of obviousness under 35 U.S.C. §103 for at least these reasons.

II. Conclusion

In summary, Appellants respectfully submit that, with respect to Claims 1 - 20 the cited references do not teach all of the recitations of the claims. Accordingly, Appellants respectfully request reversal of the rejection of Claims 1 - 20 based on the cited references.

Respectfully submitted,

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APPENDIX A

1. (Previously presented) A method of outputting an alert that an unauthorized event has occurred, the method comprising:
 - obtaining a status from a sensor;
 - retrieving personnel information comprising identity and status information for the personnel from a database, the personnel information relating to the sensor;
 - generating the alert;
 - applying a filter to determine whether to modify a severity of the alert; and
 - outputting the alert.
2. (Original) The method of claim 1, further comprising retrieving information relating to a prior event from the database.
3. (Original) The method of claim 1, further comprising accumulating the alert.
4. (Original) The method of claim 1, further comprising re-evaluating the severity of the alert.
5. (Original) The method of claim 1, further comprising re-evaluating an uncertainty of the alert.
6. (Original) The method of claim 1, further comprising applying a filter to determine whether to limit outputting of the alert.
7. (Original) The method of claim 1, further comprising outputting a recommendation relating to the alert.
8. (Original) The method of claim 1, wherein obtaining a status from a sensor includes obtaining a status from one of an infrared sensor, a physical sensor, a motion detection sensor, a

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wireless sensor, an audio pattern recognition device, a video pattern recognition device, a card reader, a biometric sensor, a software monitoring device, a trip wire, an electric eye, a pressure sensor, an access panel switch, a door switch, a microwave sensor, and a System Network Management Protocol (SNMP) trap/event message.

9. (Original) The method of claim 1, wherein outputting the alert includes outputting one of a telephone message, an electronic message, a pager message, a visual indication, and an auditory indication.
10. (Previously presented) A system for outputting an alert, the system comprising:
 - a sensor interface;
 - a database; and
 - an alert processor in communication with the sensor interface and the database, wherein the alert processor is configured to retrieve personnel information from the database, generate the alert, apply a filter to determine whether to modify a severity of the alert, and output the alert;
 - wherein the personnel information comprises identity and status information for the personnel and is related to the sensor.
11. (Original) The system of claim 10, wherein the alert processor includes an alert generation module.
12. (Original) The system of claim 10, wherein the alert processor includes an input module.
13. (Original) The system of claim 10, wherein the alert processor includes a filter module.
14. (Original) The system of claim 10, wherein the alert processor includes an alert uncertainty and severity estimation module.
15. (Original) The system of claim 10, wherein the alert processor includes a rule and algorithm update module.

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16. (Original) The system of claim 10, wherein the alert processor includes a filter/mode selection module.
17. (Original) The system of claim 10, wherein the alert processor includes an alert output module.
18. (Previously presented) A computer readable medium having stored thereon instructions which, when executed, cause a processor to:
 - obtain a status from a sensor;
 - retrieve personnel information comprising identity and status information for the personnel from a database, the personnel information relating to the sensor;
 - generate an alert;
 - apply a filter to determine whether to modify a severity of the alert; and
 - output the alert.
19. (Original) The computer readable medium of claim 18, having stored thereon additional instructions that cause the processor to obtain a status from one of an infrared sensor, a physical sensor, a motion detection sensor, a wireless sensor, an audio pattern recognition device, a trip wire, an electronic eye, a pressure sensor, an access panel switch, a door switch, a microwave sensor, and a System Network Management Protocol (SNMP) trap source/event message.
20. (Original) The computer readable medium of claim 18, having stored thereon additional instructions that cause the processor to output one of a telephone message, an electronic message, a pager message, a visual indication, and an auditory indication.

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APPENDIX B - EVIDENCE APPENDIX

None

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APPENDIX C – RELATED PROCEEDINGS APPENDIX

None.